

Reply to Office Action of December 28, 2004
Amendment Dated: March 18, 2005

Appl. No.: 09/824,844
Atty Docket No.: CSCO-007/3484

REMARKS

Applicants and the undersigned representative first thank the Examiner for the telephone interview conducted on March 9, 2005, and also for the detailed final office action. In the interview, Exhibit D and the below noted comments were discussed. It is
10 believed that the burden on the applicants to provide a summary of the interview is met in view of this response.

Claims 1-45 were examined in the final office action ("First Final Office Action") mailed on December 28, 2004. All the claims were rejected based on an assertion that the declaration and affidavit filed on 9/14/2004 under 37 CFR 1.131 in the prior response
15 have been considered but are ineffective to overcome the Barrett reference (US 2003/0135644).

In response, additional affidavits, one from the inventors and another from the undersigned representative, are submitted accompanying the present response. Entry of this response/amendment and reconsideration is respectfully requested further in view of
20 the following remarks.

In paragraph 1 of the First Final Office Action, it was noted that all the objections raised in the first office action have been overcome by virtue of the previous amendment. In paragraph 2, it was noted that all the rejections under 35 U.S.C. § 112 2nd paragraph presented in the first office action have also been overcome by the previous amendment.
25 Applicants thank the Examiner for the same.

In paragraph 4 of the First Final Office Action, it was stated that, "It appears that applicant intends to show invention of the claimed subject matter prior to the Jan. 24, 2001 date established by US Patent Application Publication 2003/0135644, to Mark A Barrett, by showing conception of the invention prior to Jan. 24, 2001 coupled with due diligence
30 from prior to Jan. 24, 2001 to the filing date of the present application, April 2, 2001." It

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is respectfully noted that it indeed is correct.

I. Formalities

In paragraph 5 of the First Final Office Action, it was stated that, "Regarding the *Affidavit* filed by Sridhar Aswathnarayan, no statement is included which acknowledges that willful false statements and the like are punishable by fine or imprisonment, or both under 18 USC 1001 and may jeopardize the validity of the application or any patent issuing thereon. Additionally, no statement appears which states that all statements made of the declarant's own knowledge are true and that all statements made on information and belief are believed to be true. (See MPEP 715.04, II)." (*Emphasis Added*).

It is respectfully noted that the noted statements are required only in the case of declarations instead of an affidavit. See the second paragraph of sub-section entitled, "FORMAL REQUIREMENTS OF AFFIDAVITS AND DECLARATIONS" in section 715.04 of MPEP. Since inventor Sridhar Aswathnarayan filed an affidavit (not a declaration), as also acknowledged by the Examiner, withdrawal of the objection is respectfully requested.

II. Conception

In paragraph 6 of the First Final Office Action, it was stated that, "The evidence submitted is insufficient to establish a conception of the invention prior to the effective date of the Barrett reference."

In response, applicants submit additional declarations from the inventors under 37 CFR § 1.131 to establish a date of conception prior to Jan. 24, 2001.

As noted in paragraphs 2 and 3 of the accompanying declaration by the inventors Sailaja S K ATTILI and Sridhar ASWATHNARAYAN, Exhibit D (attached hereto) demonstrates conception of the invention prior to January 24, 2001.

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III. Diligence

As noted in paragraphs 4 and 5 of the appended declaration by the inventors Sailaja S K ATTILI and Sridhar ASWATHNARAYAN, Exhibit D demonstrates diligence from prior to January 24, 2001 until at least April 2, 2001. April 2, 2001 represents the filing date of the subject application, representing a constructive reduction to practice.

The declaration by the undersigned representative, accompanying the present response, is also believed to meet the diligence requirements since the facts there establish that the undersigned representative was also diligent between a time prior to January 24, 2001 and April 2, 2001. The diligence of the attorney also inures to the benefit of the applicant. See MPEP § 2138.06.

Thus, the requirement of diligence from a time prior to the reference date to the constructive reduction to practice is believed to be established.

Accordingly, it is respectfully asserted that the Barrett reference is not effective prior art under 35 U.S.C. § 103 as against the subject patent application. Withdrawal of the outstanding rejections under 35 U.S.C. § 103 is respectfully requested.

The objections/rejections raised in the First Final Office Action are believed to be moot in view of the above remarks and the Exhibit submitted associated with this response.

Thus, all the objections and rejections are believed to be overcome, and that all the presented claims are in condition for allowance over the art of record. The Examiner is

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invited to telephone the undersigned representative if it is believed that an interview might be useful for any reason.

Respectfully submitted,

Naren Thappeta

Date: March 17, 2005

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